

KCC 4,5 (K-C 16,984)
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Michael T. Morman, et al. Art Unit: 3761
Serial No.: 10/037,457
Filed: December 31, 2001
Confirmation No.: 4817
For: ALL DIRECTION STRETCHABLE MULTILAYER DIAPER
Examiner: Karin M. Reichle

April 16, 2004

PETITION REGARDING NON-RECEIPT OF OFFICE COMMUNICATION
37 C.F.R. 1.181(a)

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS,
Washington, D.C. 20231

SIR:

Applicants hereby petition for a waiver of the extension of time fee to respond to the Notice of Non-Compliant Amendment dated December 23, 2003 because the Notice was never received.

On December 31, 2001, Applicants' original attorneys of record filed the above-identified application. On April 3, 2002, Applicants filed a Declaration and Power of Attorney changing the attorneys of record to the attorneys of the undersigned law firm. On August 8, 2003, Applicants' undersigned attorneys received an Office action mailed August 5, 2003. The Office Action required a response within three months. On November 5, 2003, Applicant filed a timely response to the Office action.

On March 30, 2004, Applicants' attorneys performed a routine status check of the PAIR system to determine the status of the prosecution of the application. The status check of the PAIR system indicated that a Notice of Non-Compliant Amendment had been mailed by the Patent Office on December 23, 2003. This Notice has never been received in the mail.

On March 31, 2004, the undersigned contacted Examiner Karen Reichle regarding the status of the Notice of Non-Compliant Amendment. Although she did not generate the Notice, Examiner Reichle faxed a copy of the Notice to the undersigned. The

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Notice listed a one-month response time from the mailing date of the Notice with extensions of time available under 37 C.F.R. 1.136(a). A response to this Notice is being submitted herewith.

The Notice of Non-Compliant Amendment was not received at the office of Senniger, Powers, Leavitt & Roedel as indicated by a search of the file jacket and docket. When a communication is received by our office, response dates are immediately noted on our docketing form (see Exhibit A) by our docketing personnel, and the docketing form and communication are attached to the patent application file jacket. The response dates are then entered into the docketing database by the same individual so the dates appear on a computer generated docket circulated to all responsible attorneys and support staff. The application file is then forwarded to the attorneys responsible for the patent application. Each attorney confirms the due dates on the docketing form, and calendars the dates. The application file is then forwarded to the attorneys' secretaries so they may also calendar the due dates. The secretaries then file the communication in the application file jacket along with a copy of the docketing form and return a second copy of the docketing form to the docketing department.

The computer docketing record for this application does not include the response date to the communication. (See Exhibit B). Additionally, none of the responsible attorneys nor their secretaries had the date calendared in their personal dockets. The communication and the docketing form were not located upon searching the file jacket of the patent application. The docketing department also did not have a copy of the docketing form.


In view of the above, the undersigned submits that the Notice of Non-Compliant Amendment dated December 23, 2003, was not received by Applicants' attorneys. Rather than wait for the application to be abandoned, Applicants have filed an appropriate response to the Notice herewith. In view of the fact that the Notice was never received in the mail, Applicants' request that

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the extension of time fee for filing a response to the Notice within the third month from the shortened statutory period of the Notice be waived.

Applicants believe that no petition fee is required (See M.P.E.P. §711.03(c)). However, the Commissioner is hereby authorized to charge any fee required for the consideration of this petition to Deposit Account No. 19-1345 in the name of Senniger, Powers, Leavitt & Roedel.

Respectfully submitted,



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ANC/RLB/clh

VIA FACSIMILE - 703-305-5915

U.S. PATENT DOCKETING

FILE _____ ROUTED TO _____

Docket Change Req.
☐ (CHECK HERE)**1. APPLICATION TO - BE - FILED**

DATE _____

_____ of _____

- a. _____ * Potential Statutory Bar/Non-Confidential Disclosure
 b. _____ * Continuation-In-Part/Divisional/Continuation
 c. _____ * U.S. Claiming Priority-Foreign National (12 mo.)
 d. _____ * U.S. Claiming Priority-PCT Chapter II (30 mo.)

Filed _____

Priority _____

2. PENDING APPLICATION

(describe date)

Date _____

- a. _____ * Information Disclosure Statement (3 mo.) TBP _____
 b. _____ Filing Receipt (4 Mo.)
 c. _____ (6 mo.) _____ (4 mo.) _____ (2 mo.) LTC Foreign Filing
 d. _____ * (12 mo.) _____ * (6 mo.) Foreign Filing _____ RE Priority Claimed
 e. _____ Recorded Assignment _____ * File Assignment (3 mo.)
 f. _____ Status Check (1-4 year Anniversaries)
 g. _____ * Convert to PRV
 h. _____ * Response to Notice to File Missing Parts/Requirements
 i. _____ * _____ * Response to Office action
 (3 month) (6 month)
 j. _____ * _____ * Response to Final Office action
 (2 month) (3 month) (6 month)
 k. _____ * Amended/Formal Drawings
 l. _____ * Notice of Appeal
 m. _____ * Appeal Brief
 n. _____ * Reply Brief/or Request for Oral Hearing
 o. _____ * Non-Provisional Application Due _____ to Enable Foreign Filings
 (12 month) (9 month)
 p. _____ * Other _____

3. ALLOWED APPLICATION

Allowance Date _____

- a. _____ Amendment After Allowance (Rule 312)
 b. _____ * Amended/Formal Drawings
 c. _____ * Issue Fee
 d. _____ * Early Payment of Issue Fee
 e. _____ * Certified Priority Document (US National)
 f. _____ * Request Patent Term Adjustment

4. ISSUED PATENT

Issue Date _____

- a. _____ * _____ * _____ * Maintenance Fees
 b. _____ * Broadened Reissue Declaration _____ * Expires

5. MISCELLANEOUS

(describe date) Date _____

- a. _____ Other _____
 b. _____ Abandon _____
 (Off Site _____ Retain _____) (Destruction Date _____) (File to Client _____)

Due Date(s) Entered in FDB and Computer by _____ (docketer) on _____ (date)

Due Date(s) Confirmed by _____ (attorney) on _____ (date)

Asterisk Item(s) Calendared by _____ (clerney) on _____ (date)

Due Date(s) Changed in FDB and Computer by _____ (docketer) on _____ (date)

All Items Calendared by _____ (secretary) on _____ (date)

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SPLR#	KCC4845		PRINTED ON: 4/1/2004	
COUNTRY	US	UNITED STATES	TITLE	
NEW/CON	NEW	SERIAL#	10/037,457	ALL DIRECTION STRETCHABLE MULTILAYER DIAPER
RELATED		PATENT#		
TYPE	UTL	STATUS	PUBLISHED	
CLIENT	KCC	Kimberly-Clark Worldwide, Inc.	1	CREF 16,984
AGENT				AREF

ID	O	ACTION	BASE	DUE IN	DUE	EXTNS	FINAL	EXT	RESPONSE	CALL UP	1	2	P
	N	FILE ASSIGNMENT	12/31/2001	3M	3/31/2002	11	4/30/2002	1	4/3/2002	0M	Y	Y	Y
DS	N	INF DISCLOSURE STMT	12/31/2001	3M	3/31/2002	11	4/30/2002	1	4/10/2002	1M	Y	Y	Y
G2	N	MISSING PARTS (2 MO)	2/6/2002	2M	4/6/2002	51	9/6/2002	1	4/3/2002	1M	Y	Y	Y
recvd with acquired file - Schwegman recvd 2/14/02.													
FM	N	FORMAL DRAWINGS	2/6/2002	2M	4/6/2002	51	9/6/2002	1	4/3/2002	1M	Y	Y	Y
per notice of Missing Parts dated 2/6/02.													
FS	N	FILG RCPT STATUS CHK	12/31/2001	4M	4/30/2002		4/30/2002	0	2/11/2002	0M	Y	Y	Y
Updated filing receipt rec'd 5/6/02 and 6/4/02													
	N	LTC re DOC's for FF	12/31/2001	5M	5/31/2002	14	9/30/2002	1	9/6/2002	0M	Y	Y	Y
per RLB 7/15/02 dds update; extend to 9/30/02 per client instructions.													
AS	N	ASSIGNMENT	12/31/2001	12M	12/31/2002		12/31/2002	0	6/19/2002	0M	Y	Y	Y
FO	N	FOREIGN FILING DUE	12/31/2001	12M	12/31/2002		12/31/2002	0	12/31/2002	3M	Y	Y	Y
CLIENT TO FILE 9/12/02 agent instructed to file in Argentina (4845.2); PCT (4845.1) to be filed closer to deadline.													
SC	N	STATUS CHECK	12/31/2001	12M	12/31/2002	0	12/31/2002	0	12/30/2002	1M	Y	Y	Y
AN	Y	AMEND PUBLICATION	7/3/2003										
DELETE PER KFJ													
PU	N	PUBLICATION	7/3/2003	0M	7/3/2003	13	10/3/2003	1	7/3/2003	1M	Y	Y	Y
Per PTO projection, updated filing receipt. Done 7/15 per CMG. Notice of Publication rec'd 7/21/03													
	Y	RPT CITES -US/AU/IL	8/5/2003										
DELETE PER RLB													
RE	N	RESPONSE TO OA	8/5/2003	3M	11/5/2003	31	2/5/2004	1	11/5/2003	1M	Y	Y	Y
[recvd 8/8/03]													
FM	N	FORMAL DRAWINGS	8/5/2003	3M	11/5/2003		11/5/2003	0	11/5/2003	1M	Y	Y	Y
[required per OA dated 8/5/03]													
SC	N	STATUS CHECK	12/31/2001	27M	3/31/2004	0	3/31/2004	0	3/30/2004	1M	Y	Y	Y
Per Status letter rec'd from PTO 4/7/03 (dtd 4/1/03) - application will be first examined in 5 to 8 months PAIR CK DONE 3/30/04, PTO notice of non-compliance found, not received/ call to examiner.													
SC	N	STATUS CHECK	12/31/2001	32M	8/31/2004	0	8/31/2004	0		1M	Y	Y	Y
SC	N	STATUS CHECK	12/31/2001	48M	12/31/2005	0	12/31/2005	0		1M	Y	Y	Y

INVENTORS

MICHAEL T. MORMAN

THOMAS H. ROESSLER

ASSIGNEES

Kimberly-Clark Worldwide, Inc.

USER-DEFINABLE FIELDS		PATENT FIELDS	
ART	4	SMALL ENTITY	No
LOC		CLAIMS	
PBL#	US 2003/0125696 A1	PUBLICATION#	
		ART UNIT	3761
		EXAMINER	
		CONFIRM#	4817
P92849US00		ENTERED	3/26/2002
MODIFIED		4/1/2004	BY
BAP		ATTORNEYS	RLB / CMG / ZZZ

NOTES

ACQUIRED BY SPLR 3/25/02
12/31/01 filed by Schwegman, Lundberg, Woessner & Kluth, P.A.; with specification, abstract, drawings, unexecuted decl/pwr, no filing fee.
Rec'd with missing parts and drawing requirement due.
Rec'd from PTO 6/4/02 - Revocation of Power of Attorney change - (in response to POA filed 4/23/02)
Foreigns: filed 9/12/02 in AR; pct 12/10/02; 1/23/04 in KR, MX, EPC.